



LETTER

TO

THE TREASURER

OF THE

HON. SOCIETY OF THE MIDDLE TEMPLE,

ON THE

PRESENT MANAGEMENT OF THAT INN.

WITH

A SHORT ACCOUNT OF ITS ORIGIN,

AND THE

NATURE OF ITS INSTITUTIONS.

" 'The Property is expressed to be given' for the Lodgings, Reception, and Education of the Professors and Students of the Laws of these Realms."—P. 6.

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LETTER

THE TREASURER

HON. SOCIETY OF THE MIDLAND RAILWAY

A REPORT

THOMAS W. RICHARDSON

TO
THE TREASURER

OF THE

HON. SOCIETY OF THE MIDDLE TEMPLE.

SIR,

I SHALL scarcely, I think, be giving you any information, when I say, that a very general dissatisfaction prevails among the Members of the different Inns of Court, at the manner in which these Societies are at present conducted.

It is my intention, in the present Letter, to state plainly to you the nature of these complaints; regarding more immediately the Middle Temple, of which I have the honour to be a Member. Before doing so, however, it will be necessary for me to trouble you with a short reference to the History of the Society, for the purpose of ascertaining the Object and Intention of its institution.—For this account, you will immediately perceive that I am indebted to a Work* of the well-known Sir William Dugdale; whose authority, as an antiquarian, is admitted on all hands; and who, in this particular instance, had every facility of information; being himself a Bencher of the Middle Temple, and having of course, in consequence, access to the Archives of the Society.

From his Work we learn, that the institution of Lawyers, as a body, took place in the time of Edward I., who issued a mandate to the then chief justice of the Common Pleas and his fellow-justices of that court,

* *The Origines Juridiciales.*

“That they, according to their discretion, should provide and ordain, from every court, certain attorneys and lawyers, of the best and most apt for their learning and skill, who might do service to his court and people; and that those so chosen only, and no other, should follow his court, and transact the affairs therein: the king and his council then deeming the number seven score to be sufficient for that employment: but it was left to the discretion of the said justices to add to that number, or diminish, as they should see fit.”

Where the body, formed in pursuance of this direction, immediately located themselves, does not appear: but we find Chaucer speaking of them in his time, as fixed in their present abode, the Temple, a house originally belonging to the Knights Templars; and which they rented from them until the dissolution of that order, in the beginning of the reign of Edward II. After this, they seem to have rented it of the Knights Hospitallers; into whose hands the possessions of the Templars came. When that order was, in its turn, destroyed, at the Reformation, the Temple, among the rest of their possessions, was confiscated to the Crown; of whom it continued to be held, as before, by the Lawyers, until the reign of James I.; at which period, we may observe, the separation of the Temple Lawyers into two Societies, as at present, appeared already to have taken place. In the sixth year of James I., the whole property was granted absolutely to the then Benchers of the two Societies, their heirs and assigns for ever, by the name of “*Hospicia et Capitalia Messuagia cognita per nomen de l’Inner Temple et le Middle Temple*,” subject to a reserved rent of 10*l.* to the crown, upon trust, “for the Lodgings, Reception, and Education of the Professors and Students of the Laws of these realms.” Under this grant, and upon these trusts, it is not dis-

puted, I believe, that the property of the two Temples is at present held;—the only difference, that has since been made, being, that the Benchers and the Trustees are at present different persons. This is, however, only a matter of convenience. At the first sight, therefore, it might appear that the Trustees alone are the persons, who are answerable for any breach of trust that may have been committed;—which brings me to consider the internal constitution of the Societies. This, from time immemorial, appears to have been similar in all—in the two Temples, as well as in the other Inns of Court. The destruction, indeed, of the documents belonging to the Temples, which is said to have occurred during the disturbances created by Wat Tyler, may, in some measure, account for the absence of all very early information on the subject. Whether any such information remains in the other Societies, I have, of course, no means of knowing; and Dugdale is silent on the subject. It cannot, however, be of any great importance. The usage of so many centuries—recognised, as it has so repeatedly been, by our various monarchs—cannot but be considered as sufficient. By ancient usage, then, carried back as far as the accounts we have reach, the management of these Societies has been vested in the Treasurer and the Benchers for the time being. They have always received the revenues, and administered the funds. They have, at their meetings, (or parliaments, as they are termed,) always exercised the acknowledged power of making such by-laws and regulations, from time to time, as were necessary for the purpose of carrying the above trusts into effect. But the trusts themselves are fixed and unalterable: these they cannot vary. They may exercise their discretion as to the fitness of means; but the end, the ultimate purpose, to which those means must be adapted, is defined and marked out for them.

So far, therefore, as they disregard or deviate from it, so far are they guilty of a breach of trust. As for the Trustees, their duties are no more than the ordinary duties of all Trustees; which, as every one knows, are, to allow the party, beneficially entitled to receive the rents and profits, to lend their names, whenever it may be necessary, to defend the title, or bring actions at law, and, from time to time, to convey as such party may direct. In this case the whole Society is beneficially interested: but as the Benchers constitute the governing body of the Society, they are the persons with whose directions the Trustees are bound to comply, and whom the Society must therefore consider as responsible for any breach of trust which may have been committed. I proceed, then, to consider what these trusts are, and how they are performed.

Looking at the words of the grant, they seem so clear and explicit, as not for a moment to admit of any doubt. The property is expressed to be given for the "Lodgings, Reception, and Education of the Professors and Students of the Laws of these realms." It will perhaps, however, be satisfactory to refer to ancient usage, in order to ascertain the construction that has been put upon them: as, should it appear, that a different construction has, from time immemorial, been put upon these words, from what they would seem naturally to bear, such a fact must, I readily admit, have great weight. The early accounts of the Society are, as I have already stated, lost; but there is no reason whatever for supposing the usage then different from what it was in subsequent times. Several Orders are given by Dugdale, as early as the reigns of Henry VI. and Edward VI.; and a minute account is given of the state of the Society in the time of Henry VIII. From thence, we have a series of Orders made,

from time to time, for the regulation of the different Inns, by the Lord Chancellor and Judges; all of which shew clearly a continuance of the same system; until we come to Dugdale's own time, when we again have a particular account: without entering minutely into which, it may suffice to say, that it agrees, in the main, with the account given of the state of the Society in the time of Henry VIII., and shews that the trusts, as declared in the grant, were fully and efficiently carried into effect. These Societies then formed in reality, as they ought to do, the great national seminaries of legal education. With the exception only of the Summer and Christmas vacations, they were kept open the whole year through, for the Boarding as well as Lodging of Students. A system of education was carried on, the strictness of which might well startle modern ideas. Every day, after dinner, some legal question was argued among the Students: in addition to which, a regular series of mootings, as they were called, was performed through the whole Hall; each lower rank arguing, in succession, before the one immediately its senior. Holidays were observed with the highest festivities, which were not unfrequently honoured by the presence of Royalty itself. The Readers were in the habit of giving as many as a hundred bucks in a season, for the use of the Hall; and Orders may be found, forbidding them to appear in public with more than thirteen "serving men" in livery:—with such state was it thought necessary to support the office!

In respect to chambers, it will perhaps be said, That though the Members do not appear, at that time, to have been in the habit of paying rent for them, as they do at present; yet, that they purchased them; which is much the same thing. This, however, is easily accounted for; as the buildings seem, in

But can it for a moment be supposed, that any one person can give lectures, of practical utility for the purposes of education, on a subject so multifarious as the law? It is little less than to suppose a man possessed, like an itinerant quack, of universal knowledge: he must understand at once the common law, and the practice of the common-law courts; the law of equity, and the practice of the courts of equity; and above all—and what is perhaps the most difficult of all—he must understand the law of real property, and conveyancing: all which form, as every one knows, distinct branches of the profession. It is nearly as rational to suppose that all this may be learned at two lectures. But this substitution of new lectures, in lieu of the ancient readings, useless as it is, is so far important, that it is at once an acknowledgment that some alteration should be made, and a proof how little the existing authorities are capable of making any sufficient one. I know it is the opinion of many able men in the profession, that no system of legal education can, in the present state of things, be adopted by the Inns; and I readily admit, however I may differ myself—and I certainly do differ—that very plausible arguments may be adduced in support of such an opinion. My own conviction—and that not formed without giving the subject considerable attention—decidedly is, that a system of education for the students might be established with great practical advantage; not, certainly, so as to supersede, or indeed interfere with, the present method, but, so as to be auxiliary to it. I can conceive nothing more advantageous to the student than to have some one, at the commencement of his studies, to assist him in mastering the elements, and to point out to him the road he has to travel. The only thing to be taken care of, is, that the lectures should be sufficiently plain,

familiar, and specific; adapted rather to meet practically the wants of the pupil, than for effect, and to display the knowledge of the lecturer. They should, in fact, resemble, as nearly as possible, the readings which some gentlemen in the profession are in the practice of having with their pupils, in their own chambers. As for the law lectures which have hitherto been established, it never gave me the least surprise to hear they failed;—the wonder would rather have been, had they succeeded. A single individual professes to comprise, in his lectures, subjects as different in their nature, as any given subjects can well be supposed to be! It is true, they happen all to be included in the general term—*law*; and hence the confusion, which has arisen: but, in reality, they are no less distinct and separate, than the sciences themselves are. Take, for instance, chemistry, botany, and geology: can these be said to be more distinct and separate, than equity drawing, special pleading, and conveyancing? Each of the former, it is true, like the latter, to a certain extent, involves the other; yet, what should we say of the man who professed to teach them all at once? Whatever, in studying one, it may be necessary to know of the other, will surely be best obtained by attending the lectures appropriated to that particular subject. Nor would I have legal education stop with the student. I am very much inclined to think, that lectures on constitutional law and the principles of jurisprudence might be given with the greatest benefit, not merely to the profession, but to the country at large; and that an attendance on a course should be required from every man, before his being called to the bar. According to the present system, a lawyer is usually sent, in the first instance, to one of the Universities. There he hears nothing, but that eternal Latin, and Greek, and Mathematics. He

then comes to London, where he instantly puts himself under some practising barrister, and applies himself to learn only the details of law;—of general abstract principles he knows nothing. It is to this defect in legal education, that I am, in a great measure, inclined to attribute that chicanery, and those merely verbal distinctions, which at present disgrace our laws. Words are mistaken for things; and reason is bound prisoner to form and precedent. That these must always be followed to a certain extent, no one is more sensible of than myself: it would be dangerous to do otherwise: but the English lawyer bows down before them with all the superstition of the Gentoo before his idol. It is only within the last few years, that it has been thought possible that there could be even a fault in the English law. It resembles, in consequence, a field, in which the weeds have so choked up and out-grown the corn, that not a blade of it appears; and we have grown so accustomed to the sight, that we begin at length to regard the spurious crop as the real. It does not, however, seem to me, whatever may be their private opinion, that the Benchers are at liberty to exercise their discretion as to the propriety of giving up education; and certainly not, without first giving it some trial. Legal education was the first object of the establishment: the terms of the trusts are express; and the usage, until late years, has been uniform.

But, whatever may be said with respect to education, there surely can be no pretence for saying that our physical wants are fewer than heretofore. The only difference is, that at the present day the method of supplying them has become more refined. We might naturally, therefore, look for the same improvement in the Temple, as in other places. Yet, what is the fact? That the dinners given there are served in a

more slovenly way than in any second-rate tavern in London. Things seem here to have proceeded in an inverse ratio, and to have deteriorated exactly in the same proportion, as they have elsewhere improved. Instead of the "liveried serving-men," dinner is now served up by four or five shabbily-dressed varlets, whose dirty faces, unwashed hands, and ebony-tipped fingers, might well defy the discernment of a *Cuvier*, to know to which race of mankind they belonged; and whose only object seems to be, to hurry dinner on as quickly as possible, and again as unceremoniously to hurry it away.

The Hall, once the scene of such gay doings, and still the finest room, perhaps, in the kingdom, is lit up by a few paltry lamps, that shine amid the gloom, "like good deeds in a naughty world;" and which would altogether fail even to render "the darkness visible," but for the aid of sundry tallow candles—dips—twelve to the pound, ranged along the table, in brass sticks, of a most unpolished description, in whose portentous sockets they recline at their ease, humouring themselves "to the top of their bent" at every angle of inclination.

Well may Charles*, looking down on all this, and remembering the good olden times, wear that look of settled sorrow!—With respect to the dinners provided, there is not, perhaps, much to complain of. They are plain; and this they ought to be: but the reason they ought to be plain is, because they ought not to be expensive; and this they unquestionably are. As good a dinner might be had, for the same price, in any Club in London; and the Clubs are not notorious for cheapness. And these dinners, such as they are, are given only during Term-time, not more than twelve weeks in the year.

* A celebrated portrait of this monarch, by Vandyck, hangs at the top of the Hall.

Why is this? Why, when there is every convenience, and so many Members constantly reside in town, is not the Hall kept open, the whole year through, with the exception, of course, of the long vacation? I may perhaps appear to dwell longer on this subject than it deserves; but it is one of those practical grievances, which every one suffers from, and yet is ashamed of making a serious complaint about. I know of no time in a man's professional career so trying, as when first he comes to town—it may be from the University, or a comfortable home, where he has been accustomed to have every thing furnished with the utmost neatness and cleanliness—and is turned upon the town, to seek a cheerless dinner in a filthy chop-house. It is true, there are Clubs, of which he may become a member: but every man cannot belong to Clubs; and if he could, every man cannot afford it. Besides, does this furnish any reason, whatever, why the Members should be deprived of the use of their own Hall? It was kept open in former times: why is it not now? I have, indeed, heard it assigned, as a reason, that it was shut in consequence of some of the Members misconducting themselves, in the absence of the Benchers, and the inconvenience the latter found in being always under the necessity of attending. Whether or not there be any truth in the story, of course I cannot say; but I never certainly placed any dependence on it. I can, indeed, easily believe, that if the dinners were such as they were some three years ago, when the misconduct is said to have occurred—when the water came up in common earthenware pots instead of glasses, and the knives and forks, and indeed the whole furniture of the table, were such as would have disgraced a gentleman's kitchen—I say, I can easily believe, in such a state of things, that some Member, in a fit of disgust, may have thrown the whole upon the

floor; but I do not believe, that if the Members were properly treated, they would be guilty of any ungentlemanly conduct. Shew men that you respect them, and even the worst will seldom be found wanting in respect to themselves. But even if such a thing were to occur, I cannot conceive any set of men, invested, as the Benchers are, with all necessary power for punishing the offence, so utterly imbecile as to be unable to find a way to prevent a recurrence of it.—It reminds one of the nursery-maid's answer, when her mistress scolds her for letting the child get into mischief: "Why, ma'am, Master *would* do it!"

But the heaviest ground of complaint yet remains—I allude to that part of the trust which respects "the Lodgings of the Students." In what right, or under what pretence, is it, that the enormous rents are exacted from the Members for chambers, which are in fact their own property? I say enormous; and I think I am justified in saying so, when the rental of a single staircase, that is, eight sets of chambers, exclusive of the attics, containing each three, or at most four, small rooms, amounts to little short of 1000*l.* per annum. The income which the Inns of Court thus derive cannot amount to less than thirty or forty thousand a year. The income of the Inner Temple alone is said to be near 20,000*l.*; that of the Middle is 6000*l.*; in addition to which it has also, I have heard—though not from any certain authority—a large sum in the funds. What becomes of these? Is any one to be found bold enough to come forward, and say they are expended for the purposes of the Society?

The income of very few of the Colleges in the Universities exceeds 6000*l.* a year; and yet they contrive, for nearly two-thirds of the year, to keep up a regular establishment, much greater than that of the Temple,

besides allowing handsome salaries to a Head and a certain number of Fellows. All that the Benchers ought in fairness to require, is such a sum as will enable them to provide a fund for the payment of the taxes, lighting, paving, &c.; as well as to meet, from time to time, the contingent expenses of keeping the chambers in a proper state of repair, and, if necessary, rebuilding them. To refer again to the Colleges in the Universities— which the Inns of Court, in institution, resemble as nearly as possible—this is what is done. A certain sum, entitled the “*Domus* money,” and which is produced from small payments, is set apart for the repairs of the house, and never, on any pretext, touched, except for that purpose. In the Colleges, the property belonging to the corporate body, the students of course pay for their rooms, as being in the situation of mere strangers; but this rent, I may be allowed to observe, is not more than ten or twelve pounds a year. The charges for commons are equally moderate, at least in a well-regulated college: a student is generally limited to a guinea a-week; fourteen shillings in the kitchen, and seven shillings in the buttery: these sums he must not exceed; and they are usually found more than sufficient. If to this be added an annual payment of some four or five pounds for the servants, you have the whole of the expenses of the lodging and boarding of a Student in a College at the University; and this, it must be remembered, in a house in which he has no interest. In the Temple, the property of the house belongs to the Members: in the old Orders, they are always called, as in fact they are, the Fellows of the Society; and, except for the purposes I have mentioned, I am utterly at a loss to know on what pretext any rent at all can be demanded. The Inn is not, as far as I am aware, in debt; there is no incumbrance to be paid off; and the rent reserved to

the Crown is only ten pounds a year. The Benchers themselves, however, I am informed, do enjoy their own chambers rent free; and, if they do not reside in them, are allowed to let them, and receive the rent. May I be permitted to ask on what right this is grounded? According to the terms of the grant, the property is given as well for the use of the Students as the Professors; and, as far as I can ascertain, by referring to the statements of account given by Dugdale, no such privilege existed in former times. As for the general expenses of the establishment, the necessary officers, servants, &c., surely they ought to be paid by the Members generally; and, in fact, the fees which are paid on admission, and which must amount to a considerable sum, cannot but be fully sufficient to defray them. If properly managed, the Hall would pay itself. As for requiring, in addition, an expenditure of 6000*l.* a year, it is perfectly preposterous!

There is but one conclusion which it is possible to arrive at;—either, that the rents and dues are not providently collected; or, being collected, are wasted and mis-spent. No one for a moment suspects the Benchers of peculation—I never heard such a thing even whispered;—but I have heard it often asserted, and I believe not without good reason, that there is the greatest negligence in the collection, and the greatest mismanagement in the application, of the income. Allow me to ask you, Sir, how often, during the last ten years, to inquire no further, any balance-sheet has been struck at the end of the year, or the accounts investigated? Has it been done, during that time, more than once? How comes it that some men are allowed to run on, year after year, before any demand is made? and not only is no demand made, but, in numerous instances, they find it impossible to get their account. It is no kind-

ness to any one to allow him thus to run up a large debt: every one knows he will have to pay; and few but find it more convenient to pay small sums, from time to time, than to be unexpectedly called upon to pay a large one. The Society, it is true, may, in general, feel pretty secure that it will not suffer; as it requires every Member, on his admission, and every Barrister, when called, to give a bond, with two securities, to the amount of 100*l.*, for the regular payment of all his dues; and it can, in consequence, proceed against the sureties, even should the Member himself prove insolvent. But is this acting fairly towards the sureties? One of the first Orders, hung upon the screen in the Hall, is, that no Member shall be allowed to battel in Hall until he has paid the dues of the preceding term. A surety may fairly be presumed to become bound for a Member, on the faith that this rule will be adhered to. In direct violation of it, however, the Society allows a Member to run in debt, and throw a heavy responsibility on his surety, which the slightest circumspectness on its part might have prevented. I am not stating any imaginary case. Numerous instances have occurred, in which sureties have been proceeded against and had to pay up large sums, which they had every reason to suppose long since satisfied; and this, too, when, after the long lapse of time that had taken place, they were unable to recover a sixpence from their principal. The Societies do however, occasionally, lose considerably themselves. I was told, but the other day, of an instance which lately occurred in one of the other Inns, where a surety was proceeded against, thirty years after the debt was incurred. He pleaded, in defence, that after such a lapse of time the debt must be presumed satisfied; and the Society, in consequence, found it wise to stay the prosecution.

Such, Sir, is the general nature of the complaints at present made against the management of the Inns of Court; and of the Middle Temple, among the rest;—and there is no reasonable man, I think, but will admit that they are not without good foundation. The means of reformation, however, are in no respect difficult. What could be more easy, than to appoint nine or ten of the younger portion of the profession, who have plenty of time, and to spare, on their hands, for such a purpose, to investigate the state of the Society in the particulars complained of, and report upon it to the Benchers; and, also, what means they thought might be best adopted, with a view to a reformation? Were the Benchers to come voluntarily forward and do this, they would cover themselves with honour, and receive the thanks of the Society at large. There exists at present no particle of ill-feeling towards them; nothing beyond the blame which must necessarily attach to them for allowing things to remain as they are, without any attempt to improve them.

There are remedies, indeed, which we might resort to. In all matters relating to the internal regulation of the Society, a reference lies to the Judges, who, by ancient usage, possess a visitorial power. In matters relating to the revenue, any Member might, I conceive, file a bill in Chancery, as in the common case of a *cestui qui trust*; for, in the administration of the funds, the Judges never appear to have exercised any jurisdiction; and last of all, if necessary, an appeal might be made to Parliament. No one, however, can contemplate the necessity of resorting to these means without regret; as it would be impossible to do so, without at the same time contemplating a total destruction of the good-will and harmony of the Society, which at present exists. Perhaps, indeed, I myself shall be blamed for

adopting this mode of addressing the Bench, in preference to the more private one of a petition from the complaining Members. I will candidly state why I do so;—and, speaking candidly, I do not hesitate to say, that, after the experience I have had of the method in which business is done by the Benchers, such a mode of proceeding would, in my opinion, only be attended with delay, create perhaps considerable vexation, and afford no prospect whatever of ultimately effecting any thing. The occasion to which I allude, was, when the petition was presented, a few years ago, which produced the improvement already mentioned in the dinners. The whole matter was of such simplicity, that any man of business would have found it difficult to spend more than a few hours in settling it. Yet did the learned Bench deliberate more than a year and a half:—and even then, my firm opinion is, nothing would have been done, but for the exertions of the gentleman who happened at the time to be Treasurer, and in whose subsequent loss all the junior Members of the Hall have much to lament.

The remark which I have just made will, perhaps, surprise those, who are only acquainted with the state of the Society by report, and who see among the names of the Benchers some of the most able men of the day. Those, however, who are better acquainted with it, know—as indeed it is but natural to suppose—that the latter are generally too much engaged in their professional business, to be able to find time for voluntary labour. I should be sorry to be thought to intend the slightest disrespect to the others, who may no longer have the same excuse to plead. There is a time of life, when we naturally prefer the repose of the arm-chair to the labour and bustle of activity—when we begin to think things cannot be better than in the way we have

been always accustomed to see them. Old men are, indeed, constitutionally indisposed to change. Ζῶσι τῇ μνήμῃ μᾶλλον, ἢ τῇ ἐλπίδι.

I had also another reason for adopting this mode—a wish to diffuse as widely as possible some knowledge of the nature of these Societies, and the Purposes of their institution, of which the greatest ignorance seems to prevail even among the Members themselves. Whether, indeed, I may be altogether right myself in what I have advanced, is more than I will positively affirm; for I could not meet with any one who was able to give me the least information. Should I, however, be wrong, no one will be more ready to retract any thing I may have said, under a wrong impression, than myself: and if this letter effect nothing beyond drawing forth some correct information with respect to these Societies, and the nature of their institutions, I shall not consider it to have been written in vain.

I have the honour, Sir, to remain,

Your ever obedient and humble servant,

A BARRISTER,

AND FELLOW OF THE SOCIETY.

MIDDLE TEMPLE.

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